IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3906 of 2024

==

Mrs. Gyanti Devi, W/o Shri Dilip Kumar Singh, Resident of Mamka, P.O.- Bhadwa, P.S.- Feshar, Aurangabad- 824122 (Bihar).

... ... Petitioner/s

Versus

1. Principal Commissioner of Income Tax-1 Patna.
2. Income Tax Officer, Ward- 3 (3), Aurangabad.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Jha, Advocate Mr. Aman Raja, Advocate Mr. Sanjeev Kumar, Advocate
For the Respondent/s	:	Mrs. Archana Sinha, Sr. SC, Income Tax Dept. Mr. Alok Kumar Sahi, Advocate

==

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-11-2024

The petitioner is aggrieved with the demand raised under a new PAN number distinct and different from the PAN number under which the petitioner has been filing return, which was validly issued to her by the department.

2. For the Assessment Year 2016-17, the petitioner filed Annexure-P/1 returns showing the PAN number issued to her, which is BBHPD1337C. The petitioner was issued with a show-cause notice for the said assessment year by Annexure-P/2 calling for details with respect to certain purchases made of land. The petitioner replied by Annexure-P/3 specifically

quoting the PAN number issued to her, which we have noticed from the return filed. The petitioner was then confronted with Annexure-P/4 demand dated 14.09.2023.

3. The petitioner then, by Annexure-P/5, applied for a certified copy of the notices issued to her. The Notices issued under Section 148, 142(1) and the show-cause notice under Section 144; certified copies of which were issued to the petitioner, are produced respectively as Annexure-P/6, P/7 and P/8. The assessment order is produced as Annexure-P/9, pursuant to which Annexure-P/9A notice of demand was raised. Annexure-P/10 is the penalty order passed pursuant to the assessment made on alleged escapement of tax.

4. The petitioner contends that the notices were never served on her and that the procedure prescribed under Section 148A with effect from 01.04.2021 was not complied with.

5. The learned Senior Standing Counsel for the respondent authority took us to Annexure-A-5, produced along with the counter affidavit, wherein the Principal Chief Commissioner of Income Tax, Bihar & Jharkhand had directed issuance of Section 148 notices under the Income Tax Act, 1961 against various persons, one of whom was the petitioner, who is shown at Serial No. 8. Annexure-P/5 is said to have been issued

on the basis of the directions issued by the Central Board of Direct Taxes, as is seen from Annexure-A-4. It is the contention that the notices were issued based on the order of the Principal Chief Commissioner.

6. Admittedly, the statute was amended and Section 148A was introduced from 01.04.2021. Annexure-A-4 also indicates that the directions were with respect to handling of Non-PAN cases. In this context, we have to notice that the notices issued and the order passed shows a different PAN number from that issued to the petitioner, as seen from the return produced at Annexure-P/1. The notices and the assessment order shows the PAN number of HICPD0166H, which is *suo motu* issued by the department. There was no reason to *suo motu* issue a PAN number to the petitioner, who had a valid PAN under which she was filing return; which she had specifically mentioned in Annexure-P/3 reply.

7. Annexure-A-4 and Annexure-A-5 does not apply to the petitioner at all, and in any event, Section 148A proceedings have not been followed.

8. In the above circumstances, we set aside the assessment order passed (Annexure-P/9), the demand notice (Annexure-P/9A) as also Annexure-P/10 penalty order, which is

a direct consequence of the assessment made.

9. We make it clear that if the limitation period is not over, the respondent would be entitled to proceed against the petitioner under the provisions of the Act, as it stands now. The respondent shall also take steps to cancel the *suo motu* PAN issued by the department, since the petitioner has already been issued with a PAN number.

10. The writ petition stands allowed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	28.11.2024
Transmission Date	